

INFORMATION PAPER

**DAJA-SC
20 July 2006**

SUBJECT: Political Activities

1. PURPOSE: To provide information on soldier participation in political activities.

2. REFERENCES:

A. 5 U.S.C. §§ 7321 - 7325

B. 10 U.S.C. § 101(d)(5)

C. 18 U.S.C. § 603

D. 18 U.S.C. § 607

E. 32 U.S.C. §§ 316, and 502 - 505

F. 5 C.F.R. Part 733, Political Activities of Federal Employees

G. DODD 1344.10, 2 August 2004, Political Activities by Members of the Armed Forces on Active Duty

H. DOD 5500.7-R, The Joint Ethics Regulation

I. AR 600-20, Army Command Policy, 30 March 1988, paragraph 5-3

3. POLITICAL ACTIVITIES OF MILITARY PERSONNEL

A. The political activities of officers and enlisted members of the Active Army, the USAR, and the ARNG are governed by DODD 1344.10 and AR 600-20, paragraph 5-3. The Hatch Act Amendments, 5 U.S.C. §§ 7321 - 7325, and 5 C.F.R. Part 733, only apply to civilian Federal employees (including Federal technicians employed by the National Guard and USAR). The Hatch Act does not apply to military members.

1. The restrictions in AR 600-20 apply to soldiers on active duty, which is defined as full-time duty in the active military service of the United States without regard to duration or purpose, including active duty for training, annual training, attendance at military schools, and full-time National Guard duty. They do not apply to inactive duty for training, or to

National Guard soldiers serving in state status.

2. Full-time National Guard duty is defined in 10 U.S.C. § 101(d)(5) as training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States in the member's status as a member of the National Guard of a State or Territory, under 32 U.S.C. §§ 316, 502, 503, 504, or 505, (drills, field exercises, and attendance at military schools) for which the member is entitled to pay from the U.S. or for which the member has waived pay from the U.S.

B. Soldiers on active duty may:

1. Register, vote, and express their opinions on political candidates and issues, but not as representatives of the Armed Forces;

2. Attend partisan and nonpartisan political meetings or rallies as spectators, however, they may not attend:

- a. In uniform,
- b. During duty hours,
- c. When violence is likely to result, or
- d. When their activities constitute a breach of law and order;

3. Make monetary contributions to a political organization, but not to other members of the Armed Forces on active duty or employees of the Federal Government, and subject to the following:

a. 18 U.S.C. § 607 prohibits anyone "receiving any salary or compensation for services from money derived from the Treasury of the United States" to solicit a political contribution from any other such person;

b. 18 U.S.C. § 603 prohibits officers and employees of the Federal Government, and anyone "receiving salary or compensation for service from money derived from the Treasury of the United States" from making a political contribution to any other such person who is the "employer or employing authority" of the contributor;

1). This prohibits both contributions to the individual and to the individual's campaign committee, but does not prohibit contributions to political parties;

2). In 1991, the Counsel to the President issued an opinion that this statute "may prohibit any Federal employee from contributing to the authorized campaign

committee of the President;"

4. May encourage other military members to vote;
5. Serve as an election official, if such service:
 - a. is not in uniform;
 - b. does not interfere with military duties; and
 - c. has the prior approval of the installation commander;
6. Sign a petition for legislative action or to place a candidate's name on the ballot, but only in the soldier's personal capacity;
7. Write a letter to the editor expressing personal views, and place bumper stickers on cars (but not large banners or posters).

C. Soldiers on active duty may not:

1. Use their official authority or influence for interfering with an election, soliciting votes for a particular candidate or issue, or requiring or soliciting political contributions from others;
2. Participate in partisan political management, campaigns, or conventions;
3. Write and publish partisan political articles that solicit votes for or against a partisan political party or candidate, speak before partisan political gatherings, or participate in partisan political radio or television shows;
4. Serve in any capacity or be listed as a sponsor of a partisan political club;
5. Distribute partisan political literature or conduct a political opinion survey under the auspices of a partisan political group;
6. Use contemptuous words against the President, Vice President, Congress, the Secretaries of the military departments, Defense, or Transportation, and the Governors or legislatures of any state or territory where the soldier is on duty;
7. Engage in fund-raising activities for partisan political causes on military reservations or in Federal offices or facilities;
8. Attend partisan political events as official representatives of the Armed Forces.

D. Running for office.

1. Enlisted members **not** on extended active duty (EAD is active duty under a call or order in excess of 180 days) and USAR and ARNG officers who are **not** on active duty may be candidates for and hold elected offices.

a. They may not wear uniforms when engaged in any activity in furtherance of a political interest. Wearing Army uniforms is never allowed when engaged in political activity, whether or not the person is on duty, and regardless of his or her status.

b. They may hold elected office only in a personal capacity.

c. They may not hold office that interferes with their official military duties.

2. Soldiers on active duty, including USAR and ARNG, generally may not campaign for or hold elected office in the U.S. government, or the Government of any state or territory or any political subdivision thereof.

a. Enlisted members on extended active duty may seek and hold nonpartisan civil office (an election in which none of the candidates is affiliated with a political party) as a notary public, member of a school board, neighborhood planning commission, or similar local agency as long as the office is held in a private capacity and does not interfere with military duties.

b. Installation commanders may allow a soldier to file for elective office, but this does not authorize prohibited partisan political activity. This would apply to a soldier about to be discharged or released from active duty.

4. POLITICAL ACTIVITIES OF FEDERAL CIVILIAN EMPLOYEES

A. The political activities of civilian employees of the Federal Government (including Federal technicians) are governed by the revised Hatch Act amendments, 5 U.S.C. §§ 7321 - 7325, 5 C.F.R. Part 733. The exclusive authority for interpretation of the Hatch Act is the Office of Special Counsel. They may be reached at 1-800-854-2824; e-mail: Hatchact@osc.gov. They have issued the following guidelines.

B. Civilian employees may do the following in their personal capacities:

1. Be candidates for public office in nonpartisan elections (ones in which none of the candidates is affiliated with a political party);

2. Register and vote as they choose;
3. Assist in voter registration drives;
4. Express opinions about candidates and issues;
5. Contribute money to political organizations (subject to the restrictions of part II B. 3., above);
6. Attend political fundraising functions;
7. Attend and be active at political rallies and meetings;
8. Join and be an active member of a political party or club;
9. Sign nominating petitions;
10. Campaign for or against candidates in partisan political elections, referendum questions, constitutional amendments, or municipal ordinances;
11. Make campaign speeches for candidates in partisan elections;
12. Distribute campaign literature in partisan elections; and
13. Hold office in political clubs or parties.

C. Federal civilian employees may **not do the following:**

1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election;
2. Run for the nomination or as a candidate for election to a partisan political office;
3. Knowingly solicit, accept, or receive a political contribution from a subordinate (an employee under the supervisory authority, control, or administrative direction of the other employee);
4. Engage in political activity while on duty;
5. Engage in political activity while in any room or building occupied in the discharge of official duties by a Federal employee or office-holder;

6. Engage in political activity while wearing a uniform or official insignia (**This includes military uniforms commonly worn by technicians**);

7. Engage in political activity using a U.S. Government owned or leased vehicle;

8. Intimidate, threaten, command, or coerce a Federal employee to engage in or not to engage in political activity.

D. Federal Civilian employees who live in the District of Columbia, designated areas of Virginia and Maryland, and other designated areas where the majority of voters are employed by the Federal government may:

1. Run as independent candidates in partisan elections for local offices of the designated municipality or political subdivision; and

2. Accept or receive political contributions in connection with those local elections, but they may **not** solicit political contributions from the general public.

3. In addition to DC and parts of Maryland and Virginia, the other designated communities are Anchorage, AK; Benicia, CA; Bremerton, WA; Elmer City, WA; Port Orchard, WA; Centerville, GA; Warner Robbins, GA; Crane, IN; Huachuca City, AZ; Sierra Vista, AZ; New Johnsonville, TN; and Norris, TN. For specific designated areas of Virginia and Maryland, see 5 C.F.R. § 733.102.